

## “Unlawfully treated” woman to move to new unit

Clare Dyer *BMJ*

A quadriplegic woman on a ventilator who won a court ruling last week giving her the right to die is expected to move after Easter to an intensive care unit willing to carry out her wishes. England's senior family judge ruled that the woman was mentally competent to take treatment decisions and may therefore opt to come off the ventilator.

Dame Elizabeth Butler-Sloss held that the unnamed NHS trust caring for the 43 year old former senior social worker, named only as Ms B, had been treating her unlawfully since last August, when a psychiatrist assessed her as competent.

Ms B, who became paralysed in February 2001 after a bleed into her spinal column, took the case to court after the trust refused to carry out her wishes. The trust argued that she could not make a fully informed decision because her only experience since becoming disabled was in the intensive care unit and

she had not tried a spinal rehabilitation unit.

Ms B was adamant that she had fully researched her options and decided not to try rehabilitation because it would not improve her physical condition. Before the case came to court she herself had found a director of another intensive care unit who was willing to take over her care and carry out her wishes.

Dame Elizabeth said she was “entirely satisfied” that Ms B was competent to make all relevant decisions about her treatment, including withdrawing from artificial ventilation. A competent patient had “an absolute right to refuse to consent to medical treatment for any reason, rational or irrational, or for no reason at all, even when that decision may lead to his or her death.”

The judge added: “There is a serious danger, exemplified in this case, of a benevolent paternalism which does not embrace recognition of the personal

autonomy of the severely disabled patient.”

The consultant anaesthetists caring for Ms B were emotionally involved with her and felt that switching the ventilator off would constitute killing their patient. They were willing to contemplate a “one-way weaning” process in which she was gradually withdrawn from the ventilator, but the judge said that programme seemed designed to help the carers rather than Ms B, who risked dying in discomfort and pain.

The trust failed for five months to take the key step, which should have been taken at the outset—finding another doctor prepared to carry out Ms B's wishes. In future cases, “those in charge must not allow a situation of deadlock or drift to occur.”

Ms B, who had worked in a hospital, claimed only nominal damages for trespass to the person so as not to drain funds from the NHS. The judge awarded



Dame Elizabeth Butler-Sloss

£100 (\$142; €162). The trust apologised to Ms B and agreed to pay her £55 000 legal costs.

Her solicitor, Richard Stein of the London law firm Leigh, Day & Co, said: “Most doctors recognise now that the obligation is not to keep people alive come what may.” □

## Pfizer gets a public dressing down over promoting unlicensed drugs

Paul Dinsdale *London*

The pharmaceutical company Pfizer has been given a rare public reprimand by the Association of the British Pharmaceutical Industry after being found in breach of the industry's code of conduct.

The Prescription Medicines Code of Practice Authority, which monitors complaints about drug companies, found that Pfizer had been using a team of medical liaison executives to promote unlicensed medicines and to promote off-licence indications for other products.

In its ruling the authority said that “the arrangements brought discrediting upon, and reduced con-

fidence in, the pharmaceutical industry.”

The Association of the British Pharmaceutical Industry's board of management decided that it was “a serious matter which necessitated further action.” In addition to the reprimand, contained in the authority's February 2002 review, the board requested that the authority carried out an audit of the company's medical liaison function and that the audit recommendations be implemented by Pfizer.

The complaint, although anonymous, was from a group claiming to be employees of

Pfizer, although the authority does not carry out checks to verify the identity of complainants.

The complaint was about the team of regionally based medical liaison executives. Only three of the 16 medical liaison executives were medically qualified. Although their function was to provide medical information to doctors and other health professionals, it was alleged they were canvassing support for Pfizer's products among doctors, pharmaceutical advisers, formulary committees and “any member of the NHS who could influence prescribing.”

The complainants said that this was being achieved through sharing of data on file and, significantly, data that were off-licence. They also claimed that a specific executive responsibility was to promote unlicensed prod-

ucts, such as the antipsychotic ziprasidone and off-licence indications for drugs such as atorvastatin, sildenafil, and gabapentin.

The authority said it was concerned that the description of the medical liaison executives' activities “gave the impression that the executives were doing more than responding to requests for information from health professionals and others.”

Pfizer accepted that it had breached the code in respect of failing to maintain high standards but appealed against the other rulings of breaches of the code, one of which was successful.

A spokesperson for Pfizer said: “While we accept the Association of the British Pharmaceutical Industry ruling, there was never any intention of breaching the code of practice.” □